

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CARNEGIE INSTITUTION OF  
WASHINGTON and M7D CORPORATION,

Plaintiffs,

v.

FENIX DIAMONDS LLC,

Defendant.

Civil Action No. 1:20-cv-00200-JSR

**CONFIDENTIAL-  
FILED UNDER SEAL**

**DECLARATION OF NICOLE E. KOPINSKI IN SUPPORT OF DEFENDANTS  
FENIX DIAMONDS LLC'S RULE 56.1 STATEMENT OF UNCONTESTED  
MATERIAL FACTS IN SUPPORT OF ITS MOTION FOR  
SUMMARY JUDGMENT OF NON-INFRINGEMENT**

I, Nicole E. Kopinski, declare the following:

I am an attorney admitted *pro hac vice* to practice before this Court and a Partner with the law firm of Leydig, Voit & Mayer, Ltd., counsel for Fenix Diamonds LLC. I submit this declaration to place in the record and before the Court true and correct copies of the exhibits cited in Defendant Fenix Diamonds LLC's Rule 56.1 Statement of Uncontested Material Facts in Support of Its Motion for Summary Judgment of Non-Infringement.

1. Attached as Exhibit 1 is a true and correct copy Second Amended Plaintiffs' Local Rule 6 Disclosure to Defendant Fenix Diamonds LLC.
2. Attached as Exhibit 2 is a true and correct copy of U.S. Patent No. 6,858,078.
3. Attached as Exhibit 3 is a true and correct copy of RE41,189.
4. Attached as Exhibit 4 is a true and correct copy of excerpts of the Expert Report of Michael Capano, Ph.D. Regarding Infringement of U.S. Patent No. 6,858,078.

5. Attached as Exhibit 5 is a true and correct copy of the Joint Affidavit of Bakulbhai Limbasiya and Chirag Limbasiya bates labeled NV958-977.
6. Attached as Exhibit 6 is a true and correct copy of excerpts of the Expert Report of J. Michael Pinneo, Ph.D. Regarding Non-Infringement of U.S. Patent No. 6,858,078.
7. Attached as Exhibit 7 is a true and correct copy of excerpts of the Expert Report of Karen K. Gleason, Ph. D. Regarding Validity of U.S. Patent Nos. 6,858,078 and RE41,189.
8. Attached as Exhibit 8 is a true and correct copy of the article entitled, “Very High Growth Rate Chemical Vapor Deposition of Single-Crystal Diamond,” Yan, et al., 20 PNAS 12523–25.
9. Attached as Exhibit 9 is a true and correct copy of excerpts from the deposition of Russell Hemley taken September 1, 2020 in Civil Action No. 1:20-cv-00200.
10. Attached as Exhibit 10 is a true and correct copy of excerpts of the Expert Report of John C. Jarosz.
11. Attached as Exhibit 11 is a true and correct copy of excerpts from the deposition of Amit Mehta taken July 22, 2020 in Civil Action No. 1:20-cv-00200.
12. Attached as Exhibit 12 is a true and correct copy of excerpts of the Rebuttal Expert Report of Dr. John Martens Regarding U.S. Patent No. 6,585,078.
13. Attached as Exhibit 13 is a true and correct copy of an Email from K. Patariu to M. Snow, et al. dated July 23, 2020.
14. Attached as Exhibit 14 is a true and correct copy of excerpts from the deposition of Yogesh Vohra taken July 31, 2020 in Civil Action No. 1:20-cv-00200.
15. Attached as Exhibit 15 is a true and correct copy of excerpts from the deposition of Yarden Tsach taken August 27, 2020 in Civil Action No. 1:20-cv-00200.

Dated: October 13, 2020

/s/ Nicole E. Kopinski

Daniel P. Waxman (DW-0599)  
BRYAN CAVE LEIGHTON PAISNER LLP  
1290 Avenue of the Americas  
New York, NY 10104  
Telephone: (212) 541-2040  
Facsimile: (212) 541-4630  
dpwaxman@bryancave.com

Steven H. Sklar (*pro hac vice*)  
Maxwell B. Snow (*pro hac vice*)  
David M. Airan (*pro hac vice*)  
Nicole E. Kopinski (*pro hac vice*)  
LEYDIG, VOIT & MAYER, LTD.  
Two Prudential Plaza, Suite 4900  
180 North Stetson Avenue  
Chicago, IL 60601  
Telephone: (312) 616-5600  
Facsimile: (312) 616-5700  
dairan@leydig.com  
ssklar@leydig.com  
msnow@leydig.com  
nkopinski@leydig.com

*Attorneys for Defendant,  
Fenix Diamonds LLC*